

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

NEW COLT HOLDING CORP., *et al.*, :
Plaintiffs, :
 :
-vs- : Civ. No. 3:02cv173 (PCD)
 :
RJG HOLDINGS OF FLORIDA, INC., *et al.*:
Defendants. :

RULING ON MOTION FOR LEAVE TO CONTINUE DEPOSITION OF WARREN
KEEGAN AND PLAINTIFFS' MOTION FOR A PROTECTIVE ORDER

Defendant AWA International, Inc. ("AWA") moves for leave to continue the deposition of Warren Keegan, plaintiffs' expert, for a period of up to four hours. Plaintiffs oppose the motion and move for a protective order preventing the deposition. For the reasons set forth herein, AWA's motion is granted and plaintiffs' motion is denied.

Warren Keegan was first deposed on February 11, 2003, on which day, according to AWA, he was questioned exclusively by defendant RJG Holdings ("RJG"). The deposition lasted approximately six hours with a one hour lunch break. The deposition was continued to March 5, 2003, on which day Keegan was deposed for approximately four hours.

AWA argues that it requires approximately four more hours in which to depose Keegan because it was effectively afforded only four hours to depose him due to the involvement of RJG in the first deposition and because the deponent's hesitant responses to inquiries precluded a rapid exchange of questions and answers. Plaintiffs respond that AWA's inefficiency led to its inability to complete the deposition in the time allotted, and as such it should not be permitted to continue the deposition.

FED. R. CIV. P. 30(d)(2) provides that “a deposition is limited to one day of seven hours” unless “additional time consistent with Rule 26(b)(2) i[s] needed for a fair examination of the deponent or if the deponent or another person, or other circumstance, impedes or delays the examination.” As noted in the Advisory Committee Notes to Rule 30, relevant considerations to granting an extension of time beyond the seven hours allowed include “[i]n multi-party cases, the need for each party to examine the witness” and “with regard to expert witnesses, the[] . . . need for additional time . . . for full exploration of the theories upon which the witness relies.”

Although plaintiffs’ argument as to the efficiency with which the depositions were conducted is not without merit, namely that it will take in excess of fourteen hours between two defendants to depose a single expert, it is not evident given the facts that such time is not appropriate under the circumstances. The interests of two defendants involved in the deposition are not necessarily consistent, and Rule 30 concedes that extensions may be appropriate in multiparty cases. It is not apparent, given the involvement of RJG in the first deposition, that AWA has been afforded the opportunity for a fair examination of the deponent as required by Rule 30(b)(2). AWA is therefore granted a maximum of four hours to complete its deposition. Defendant AWA’s motion for continue the deposition of Warren Keegan (Doc. No. 104) is **granted**. Plaintiffs’ motion for a protective order (Doc. No. 107) is **denied**.

SO ORDERED.

Dated at New Haven, Connecticut, March ___, 2003.

Peter C. Dorsey
United States District Judge